

AMENDED IN SENATE AUGUST 12, 2013

AMENDED IN SENATE JUNE 17, 2013

AMENDED IN ASSEMBLY APRIL 17, 2013

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 537

Introduced by Assembly Member Bonta

February 20, 2013

An act to amend Sections 3505, 3505.1, 3505.2, and 3507 of, and to add Section 3505.8 to, the Government Code, relating to public employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 537, as amended, Bonta. Meyers-Milias-Brown Act: impasse procedures.

The Meyers-Milias-Brown Act requires the governing body of a local public agency to meet and confer in good faith regarding wages, hours, and other terms and conditions of employment with representatives of recognized employee organizations. Under the act, if the representatives of the public agency and the employee organization fail to reach an agreement, they may mutually agree on the appointment of a mediator and equally share the cost.

This bill would instead authorize the representatives of the public agency or the employee organization, if they fail to reach an agreement, to request mediation. The bill would require that the parties agree upon the appointment of a mediator mutually agreeable to the parties within 5 14 days of a request by one of the parties. If the parties fail to agree

on the selection of a mediator within 5 14 days, the bill would authorize either party to request the appointment of a mediator, as specified. By requiring a higher level of service by a local public agency, the bill would impose a state-mandated local program.

The act requires that, in order to meet and confer in good faith, a public agency meet personally and confer promptly, and continue for a reasonable period of time, with the employee organization in order to exchange freely prior to the agency adopting a budget for the next fiscal year.

This bill would prohibit a public agency from conditioning the meeting and conferring on a limitation on the right of employees or an employee organization to communicate with officials of the agency.

The act requires, if an agreement is reached, that the parties prepare jointly a nonbinding written memorandum of understanding of the agreement that would then be presented to the governing body or its statutory representative for determination.

This bill would require that a tentative agreement reached by the parties be presented to the governing body for determination and, if not rejected within 30 days, be deemed adopted. This bill would not bar the filing of a charge for failure to meet and confer in good faith if the governing body rejects the tentative agreement. The bill would further require the parties to jointly prepare a written memorandum of understanding upon adoption of the tentative agreement by the governing body.

Under existing law, a written agreement to submit to arbitration a specified controversy is valid, enforceable, and irrevocable, except if grounds exist for the revocation of the written agreement.

This bill would additionally provide that an arbitration agreement contained in a memorandum of understanding entered into under the Meyers-Milias-Brown Act is enforceable, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3505 of the Government Code is amended
2 to read:

3 3505. (a) The governing body of a public agency, or the
4 boards, commissions, administrative officers, or other
5 representatives as properly designated by law or by a governing
6 body, shall meet and confer in good faith regarding wages, hours,
7 and other terms and conditions of employment with representatives
8 of those recognized employee organizations, as defined in
9 subdivision (b) of Section 3501, and shall consider fully ~~such~~ *the*
10 presentations as are made by the employee organization on behalf
11 of its members prior to arriving at a determination of policy or
12 course of action.

13 (b) “Meet and confer in good faith” means that a public agency,
14 or such representatives as it may designate, and representatives of
15 recognized employee organizations, shall have the mutual
16 obligation personally to meet and confer promptly upon request
17 by either party and continue for a reasonable period of time in
18 order to exchange freely information, opinions, and proposals, and
19 to endeavor to reach agreement on matters within the scope of
20 representation prior to the adoption by the public agency of its
21 final budget for the ensuing year. A public agency shall not propose
22 as a condition of meeting and conferring a limitation on the right
23 of an employee organization or employees of the agency to
24 communicate with officials of the agency. The process should
25 include adequate time for the resolution of impasses where specific
26 procedures for ~~such~~ *the* resolution are contained in local rule,
27 regulation, or ordinance, or when ~~such~~ *these* procedures are utilized
28 by mutual consent.

29 SEC. 2. Section 3505.1 of the Government Code is amended
30 to read:

31 3505.1. If a tentative agreement is reached by the authorized
32 representatives of the public agency and a recognized employee
33 organization or recognized employee organizations, that tentative
34 agreement shall be presented to the governing body for
35 determination. If the governing body does not reject the tentative
36 agreement within 30 days from its presentation, it shall be deemed
37 adopted. A decision by the governing body to reject the tentative
38 agreement shall not bar the filing of a charge of unfair practice for

1 failure to meet and confer in good faith. If the governing body
2 adopts the tentative agreement, the parties shall jointly prepare a
3 written memorandum of understanding.

4 SEC. 3. Section 3505.2 of the Government Code is amended
5 to read:

6 3505.2. If after a reasonable period of time, representatives of
7 the public agency and the recognized employee organization fail
8 to reach agreement, either the public agency or the recognized
9 employee organization or recognized employee organizations may
10 request mediation. Within ~~five~~ 14 days of a request by one of the
11 parties, the parties shall agree upon the appointment of a mediator
12 mutually agreeable to the parties. If the parties fail to agree on the
13 selection of a mediator within ~~five~~ 14 days, either party may request
14 that the board appoint a mediator. The board shall, no later than
15 ~~five~~ 14 days after receipt of the request, appoint a mediator in
16 accordance with rules prescribed by the board. Costs of mediation
17 shall be divided one-half to the public agency and one-half to the
18 recognized employee organization or recognized employee
19 organizations.

20 SEC. 4. Section 3505.8 is added to the Government Code, to
21 read:

22 3505.8. An arbitration agreement contained in a memorandum
23 of understanding entered into under this chapter shall be
24 enforceable in an action brought pursuant to Title 9 (commencing
25 with Section 1280) of Part 3 of the Code of Civil Procedure. An
26 assertion that the arbitration claim is untimely or that the party
27 seeking arbitration has failed to satisfy the procedural prerequisites
28 to arbitration shall not be a basis for refusing to submit the dispute
29 to arbitration. All procedural defenses shall be presented to the
30 arbitrator for resolution. A court shall not refuse to order arbitration
31 because a party to the memorandum of understanding contends
32 that the conduct in question arguably constitutes an unfair practice
33 subject to the jurisdiction of the board.

34 SEC. 5. Section 3507 of the Government Code is amended to
35 read:

36 3507. (a) A public agency may adopt reasonable rules and
37 regulations after meeting and conferring in good faith with
38 representatives of a recognized employee organization or
39 organizations for the administration of employer-employee
40 relations under this chapter. An impasse in these negotiations shall

1 be resolved pursuant to the procedures of Sections 3505.4 to
2 3505.7, inclusive.

3 (b) The rules and regulations described in subdivision (a) may
4 include provisions for all of the following:

5 (1) Verifying that an organization does in fact represent
6 employees of the public agency.

7 (2) Verifying the official status of employee organization
8 officers and representatives.

9 (3) Recognition of employee organizations.

10 (4) Exclusive recognition of employee organizations formally
11 recognized pursuant to a vote of the employees of the agency or
12 an appropriate unit thereof, subject to the right of an employee to
13 represent himself or herself as provided in Section 3502.

14 (5) Additional procedures for the resolution of disputes involving
15 wages, hours, and other terms and conditions of employment.

16 (6) Access of employee organization officers and representatives
17 to work locations.

18 (7) Use of official bulletin boards and other means of
19 communication by employee organizations.

20 (8) Furnishing nonconfidential information pertaining to
21 employment relations to employee organizations.

22 (9) Any other matters that are necessary to carry out the purposes
23 of this chapter.

24 (c) Exclusive recognition of employee organizations formally
25 recognized as majority representatives pursuant to a vote of the
26 employees may be revoked by a majority vote of the employees
27 only after a period of not less than 12 months following the date
28 of recognition.

29 (d) No public agency shall unreasonably withhold recognition
30 of employee organizations.

31 (e) Employees and employee organizations shall be able to
32 challenge a rule or regulation of a public agency as a violation of
33 this chapter. This subdivision shall not be construed to restrict or
34 expand the board's jurisdiction or authority as set forth in
35 subdivisions (a) to (c), inclusive, of Section 3509.

36 SEC. 6. If the Commission on State Mandates determines that
37 this act contains costs mandated by the state, reimbursement to
38 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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